

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTHONY CASIANO,

Plaintiff,

v.

CAPT. THEAGRE, No. 1851;
CORRECTIONAL OFFICER K. LUTON,
No. 5144; CORRECTIONAL OFFICER C.
FOOTE, No. 5509; CORRECTIONAL
OFFICER TIM GRAY, No. 17389;
CORRECTIONAL OFFICER K. SHEPARD,
No. 11487; CORRECTIONAL OFFICER
RUCKER, No. 2398; CORRECTIONAL
OFFICER B. GERADEAU, No. 9037;
CORRECTIONAL OFFICER A.
CAPEHART, No. 3713; CORRECTIONAL
OFFICER SEIVWRIGHT, No. 17414;
NICHOLAS FRANTZ; WARDEN KISA
SMALLS; THE CITY OF NEW YORK,

Defendants.

19 Civ. 5226

(KPF) **ORDER**

KATHERINE POLK FAILLA, District Judge:

Plaintiff, currently incarcerated in Auburn Correctional Facility, brings this *pro se* action under 42 U.S.C. § 1983, alleging that, while he was detained by the New York City Department of Correction, Defendants violated his constitutional rights. By Order dated July 9, 2019, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* (IFP).¹ Plaintiff filed a Third Amended Complaint on January 7, 2021.

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. See 28 U.S.C. § 1915(b)(1).

(Dkt. #151). The Court issued an Order of Service on January 8, 2021. (Dkt. #153).

On February 8, 2021, the New York City Department of Correction returned a waiver of service of summons unexecuted on behalf of Defendants Warden Kisa Smalls and C.O. K. Shepard, Shield No. 11487, declining to waive service because it no longer employed these Defendants. (Dkt. #158). Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). It is therefore ordered that the New York City Law Department, which is the attorney for and agent of the New York City Department of Correction, provide the last known residential addresses where Smalls and Shepard may be served. The New York City Law Department must provide this information to Plaintiff and the Court within thirty (30) days of the date of this Order.

CONCLUSION

The Clerk of Court is directed to mail a copy of this Order to Plaintiff at his address of record.

The Clerk of Court is directed to mail a copy of this Order and the complaint to New York City Law Department at: 100 Church Street, New York, New York 10007.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438,

444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: February 9, 2021
New York, New York



KATHERINE POLK FAILLA
United States District Judge